IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Sultan Singh. Versus State of Rajasthan & Anr.

S.B. Criminal Misc. Petition No. 292/2003
against the order dated 22-10-2002 passed
by the Judicial Magistrate, Jodhpur City,
Jodhpur, in Criminal Case No. 359-A/2002.

...

Date of Order: September 07, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. G.R. Punia, for the petitioner.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.
Mr. Pradeep Shah, for non-petitioner No.2.

BY THE COURT:

By the instant criminal miscellaneous petition under Section 482 Cr.P.C., the petitioner has challenged the order dated 22-10-2002 passed by the Judicial Magistrate, Jodhpur City, Jodhpur (for short, "the trial Court" hereinafter) in Criminal Case No.359-A/2002, whereby the trial Court took cognizance of the offences under Section 420, 468 and 471 IPC against the petitioner and issued the process.

I have heard learned counsel for the parties.

The petitioner and non-petitioner No.2 are the real brothers and both are present in the Court. By filing S.B.

Criminal Misc. Application No. 524/2006, non-petitioner No.2 Dilip Singh, who is present in the Court and identified by his counsel Mr. Pradeep Shah, has filed a compromise stating therein that the petitioner and non-petitioner No.2 are the real brothers; a sudden dispute arose with regard to ancestral property but now the parties have settled their dispute amicably and, therefore, in order to maintain peace and harmony in the family, they have decided that the complainant would not pursue the criminal case instituted by him against the present petitioner.

Even otherwise, on careful perusal of the record, there being no element of criminal intent, the impugned order deserves to be set aside, more particularly when the complainant has compromised the matter and decided not to pursue the complaint.

In the result, the criminal miscellaneous petition is allowed. The impugned order dated 22-10-2002 passed by the trial Court in Criminal Case No. 359A/2002 is set aside. The stay petition stands disposed of. S.B. Criminal Application No. 524/2006 also stands disposed of.

(H.R. PANWAR), J.

mcs